

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

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CARIM CRUZ,

Petitioner,

v.

WILLIAM HUTCHING, et al.,

Respondents.

Case No. 2:21-cv-02118-GMN-DJA

**Order Granting Extension of Time to
Oppose Motion to Dismiss to
March 21, 2023 and Granting Motion to
File Exhibits under Seal**

(ECF Nos. 25, 27, 28)

28 U.S.C. § 2254 habeas corpus petitioner Carim Cruz moves for an extension of time to oppose respondents' motion to dismiss. (ECF No. 28.) Good cause appearing, the motion is granted.

Respondents have moved for leave to file certain exhibits *in camera* and under seal. (ECF No. 25.) While there is a presumption favoring public access to judicial filings and documents, a party seeking to seal a judicial record may overcome the presumption by demonstrating "compelling reasons" that outweigh the public policies favoring disclosure. See *Nixon v. Warner Communications, Inc.*, 435 U.S. 589, 597 (1978); *Kamakana v. City and County of Honolulu*, 447 F.3d 1172, 1178-79 (9th Cir. 2006) (citations omitted). In general, "compelling reasons" exist where the records may be used for improper purposes. *Kamakana*, 447 F.3d at 1179 (citing *Nixon*, 435 U.S. at 598).

Here, respondents ask to file Cruz's presentence investigation report ("PSI") and victim impact statements *in camera* and under seal because they are confidential under

1 state law and the disclosure of the report and statements could jeopardize Cruz's safety
2 as well as prison security. (ECF No. 25 at 2.) The court has reviewed the PSI and the
3 victim impact statements and concludes that respondents have demonstrated
4 compelling reasons to file them under seal. However, neither the PSI nor the victim
5 impact statements appear to include information that is so sensitive that it would warrant
6 *in camera* filing. Accordingly, the court grants the motion in part, and the PSI and
7 statements will remain under seal.

8 **IT IS THEREFORE ORDERED** that petitioner's unopposed first motion for
9 extension of time to file an opposition to the motion to dismiss (ECF No. 27) is
10 **GRANTED** *nunc pro tunc*.

11 **IT IS FURTHER ORDERED** that petitioner's second unopposed motion for
12 extension of time to file an opposition to the motion to dismiss (ECF No. 28) is
13 **GRANTED. The deadline to file the opposition is extended to March 21, 2023.**

14 **IT IS FURTHER ORDERED** that respondents' motion for leave to file exhibits *in*
15 *camera* and under seal (ECF No. 25) is **GRANTED** in part. The documents will remain
16 under seal.

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19 DATED: 20 January 2023.

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23 GLORIA M. NAVARRO
24 UNITED STATES DISTRICT JUDGE
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